

## **NOTICE:**

**CURRENTLY ALL ADMINISTRATIVE  
CHILD SUPPORT HEARINGS ARE ONLY  
BEING CONDUCTED BY TELEPHONE  
CONFERENCE CALL AND NOT IN  
PERSON. THIS IS TO PROTECT THE  
HEALTH AND SAFETY OF THE PUBLIC  
AND PREVENT THE POSSIBLE SPREAD  
OF THE COVID-19 VIRUS.**

7/14/2021

1

The Office of Child Support Hearings (OCSH) has only been conducting hearings by telephone conference call (and not in person) statewide since 5/1/2020, because of Covid-19 restrictions. OCSH has been conducting hearings by telephone conference call for almost 20 years, so it had experience doing this and could easily transition from telephone hearings for only neighbor islands to state wide. OCSH does not have video capabilities, so hearings can not be conducted via video conferencing or platforms. OCSH had the authority to conduct hearings by phone before the pandemic, which was reinforced during the pandemic based on:

### **Governors Emergency Proclamations:**

#### **Suspension of Laws**

The following laws are suspended, as allowed by federal law, pursuant to section 127-13(a)(3), HRS, in order for county and state agencies to engage in emergency management functions as defined in section 127A-2, HRS:

Chapter 91, HRS administrative procedure, to the extent necessary such that, at the sole discretion of the department or agency, any administrative hearing may be conducted by telephone or video conference without the parties, department or agency, being physically present in the same location any deadlines may be waived or suspended; and any administrative hearing procedures, such as, but

not limited to, conferences, filing of documents or service, may be done vial telephone or email. Additionally, to provide agencies with maximum flexibility to respond to the COVID-19 emergency, and authorize any agency or court to stay or continue administrative hearings, appeals, and related deadlines as necessary.

**Statute (law):**

“Sec. 576E-9: Hearings may be conducted by telephone or other electronic telecommunications method at the discretion of the hearings officer.”

**Administrative Rule:**

“Sec. 5-34-15(b): Hearings may be conducted by telephone or other electronic telecommunication methods at the discretion of the hearings officer.”

# GENERAL INFORMATION FOR HAWAII ADMINISTRATIVE CHILD SUPPORT HEARINGS

by the

## Office of Child Support Hearings

Department of the Attorney General  
State of Hawaii

7/14/2021

2

The purpose of this presentation is to provide hearing participants (parties) with *general information* to help them understand and prepare for an administrative child support hearing. It is not meant to provide *specific information* about every child support situation, case, or hearing. The particular circumstances or special facts of a case may cause the outcome of a hearing to be different from what is presented here.

If a party has had a hearing and is coming back for a continued hearing, they should follow the instructions or orders given by the presiding Hearings Officer as they apply directly to that specific case.

## **DEFINITIONS and ABBREVIATIONS**

- OCSH: Office of Child Support Hearings
- CSEA: Child support Enforcement Agency
- HO: Hearings Officer
- Court(s): Hawaii Family Court
- Department: Department of the Attorney General
- DHS: Welfare Division, Department of Human Services, State of Hawaii
- TANF: Temporary Aid to Needy Families (cash welfare assistance from DHS)
- MedQuest: (medical insurance assistance from DHS)
- NOH: Notice of Hearing

7/14/2021

3

## OCSH CONTACT INFORMATION

(Found on the top of the Notice of Hearing form)

Office of Child Support Hearings  
Department of the Attorney General  
State of Hawaii  
601 Kamokila Blvd., Suite 436  
Kapolei, HI 96707  
Phone: (808) 692-7110  
Fax: (808) 692-7114

Hours: 7:30 a.m. – 4:30 p.m.

7/14/2021

4

Parties can still call OCSH and leave voice mail messages or fax in documents even if the office is closed.

## LAWS & RULES

### STATUTES (Laws):

- Chapter 91, Hawaii Revised Statutes (Public Proceedings)
- Chapter 576E, Hawaii Revised Statutes (Administrative Process for Child Support)

### RULES:

- Title 5, Chapter 34, Hawaii Administrative Rules (Practice and Procedure for Administrative Process)

7/14/2021

5

The statutes (laws) and rules that govern the administrative child support hearing process are available on the internet, and parties should read them to prepare for their hearing.



## HELPFUL WEBSITES

1. OCSH: [www.hawaii.gov/ag/ocsh](http://www.hawaii.gov/ag/ocsh)
2. CSEA: [www.hawaii.gov/ag/csea](http://www.hawaii.gov/ag/csea)
3. COURT: [www.courts.state.hi.us](http://www.courts.state.hi.us)
4. LEGAL HELP:
  - [www.vlsh.org](http://www.vlsh.org)
  - [www.legalaidhawaii.org/](http://www.legalaidhawaii.org/)
  - [www.hawaiilawyerreferral.com/](http://www.hawaiilawyerreferral.com/)
  - [www.hawaiifamilylawsection.org/](http://www.hawaiifamilylawsection.org/)

7/14/2021

6

1. Website for the Office of Child Support Hearings (OCSH)
2. Website for the Child Support Enforcement Agency (CSEA)
3. Website to the Courts, which contain links to the Family Court and the Child Support Guidelines Worksheet
4. Websites for legal help or lawyers

## 3 BRANCHES OF STATE GOVERNMENT

LEGISLATIVE  
(Legislature)  
MAKES LAWS

EXECUTIVE  
(Governor, Departments)  
EXECUTES and  
ADMINISTERS LAWS

JUDICIAL  
(Courts)  
INTERPRETS AND APPLIES  
LAWS

7/14/2021

7

OCSH is part of the Executive branch of Government because it is part of the Department of the Attorney General.



# EXECUTIVE BRANCH

GOVERNOR

DEPARTMENT OF THE  
ATTORNEY GENERAL

CSEA

OCSH

7/14/2021

8

The Office of Child Support Hearings (OCSH) and the Child Support Enforcement Agency (CSEA) are in the Executive (administrative) branch of government.

Although both are involved in the administrative process, they are separate and equal divisions of the Department of the Attorney General, State of Hawaii.

## JUDICIAL PROCESS v. ADMINISTRATIVE PROCESS

### JUDICIAL = Family Courts

- Child support
- Child support arrears/debt
- Medical insurance
- Custody
- Visitation
- Divorce
- Paternity
- Protective orders
- Adoption

7/14/2021

### ADMINISTRATIVE =

#### CSEA and OCSH

- Child support
- Child support arrears/debt
- Medical insurance

#### No jurisdiction over

- Custody
- Visitation
- Divorce
- Paternity
- Protective orders
- Adoption

9

There are differences between these processes which may affect which a party chooses. The Hawaii Family Courts have broad power to decide many different types of issues and complex cases. The Court also has the power to sanction and punish, has more resources available for the parties to use, but the process may take longer and require an attorney to use and complete. The administrative process only handles a limited number of issues, does not sanction or punish parties, has no resources available to use, but may be faster and easier to use and complete.

CSEA labels the person paying child support the "Responsible Parent" (RP), and the person who receives the child support is the "Custodial Parent" (CP). This is done even if parents share physical custody of the children, or the CP is a caretaker of the child and not a parent. RP and CP are only labels that CSEA uses internally and do not grant a person any custody rights.

## **CSEA**

### **Creates and enforces child support orders**

- **Federal Programs: TANF, MedQuest**
- **Non Federal Programs: Anyone else**
- **Bound by Federal rules, regulations, and deadlines**

### **Collects and processes payments**

- **Maintains payment records**
- **Receives payments, keeps accounting**
- **Divides payments between accounts**
- **Divides payments between families**

7/14/2021

10

CSEA monitors thousands of open cases statewide. It was created under Title IV of the Federal Social Security Act, and was set up by State and Federal law with specific rules, procedures, and deadlines to follow. The purpose of CSEA is to obtain a child support order or enforce an existing child support order. Initially CSEA was only involved in cases where children participated in federally funded programs (TANF, MedQuest), but this was later expanded to include all children.

CSEA will try to collect child support with an order for income withholding through a parties' paycheck or benefit check. The support is then sent to CSEA, who records it, and then sends it to the other party within 48 hours.

## OCSH

- OCSH becomes involved in a case after CSEA schedules a hearing
- Hearings Officers are attorneys
- Hearings Officers have the same power and authority as Family Court Judges for a limited number of issues
- Hearings Officers make sure parties receive Due Process
- Hearings Officers conduct fair and impartial hearings
- Hearing Officers make decisions and issue orders

7/14/2021

11

Hearings Officers are administrative law judges and have the same authority as family court judges to decide issues of child support, unpaid court ordered child support (arrears), state debt, and medical insurance coverage for children. Spousal support arrears may also be addressed on a limited basis. Hearings Officers have discretion and authority when conducting hearings, and control the conduct and course of the hearing and parties.

# DUE PROCESS

Due Process includes a person's right to:

- Notice of a hearing
- Notice of issues to be discussed at the hearing
- A fair and impartial hearing
- To appeal of the final order issued

7/14/2021

12

## INITIATING AN ACTION

### WHO CAN APPLY FOR SERVICES:

- Responsible Parent, Custodial Parent, or Caretaker of a child
- DHS if there is
  - TANF
  - MedQuest
  - Foster care

7/14/2021

13

An administrative child support case starts when someone applies for services with CSEA. If the Custodial Parent lives in another state with the child, they can apply for services through their state's agency. That agency will send a request to the Hawaii CSEA if the RP lives here.

CSEA must start a case on behalf of the Welfare Division, Department of Human Services, State of Hawaii (DHS) when a child receives welfare cash payments (TANF), health insurance coverage (MedQuest), or is in foster care, because this is required by State and Federal law.



## PROCESSING AN ACTION

### CSEA CASE PROCESSING:

- CSEA will request information from the parties
- CSEA calculates the child support guidelines based on information it has
- CSEA calculates arrears or debt based on information it has
- CSEA serves a proposed order on the parties
- If a party objects to the proposed order, they can request a hearing

7/14/2021

14

After CSEA receives an application or request for services, it will request information from the parties. A case may be delayed if CSEA is unable to get information from the parties.

CSEA prepares and serves a proposed order on the parties. CSEA must serve the proposed order by certified mail or personal service if child support is being established. CSEA may serve the proposed order by regular mail if it enforcing a child support order. A case may be delayed if CSEA is unable to serve the parties with the proposed order.

If a party objects to the proposed order, they can request a hearing by completing and sending in the attached hearing request form. When CSEA receives the hearing request, it schedules a hearing and a Hearings Officer from OCSH is assigned to conduct the hearing. This separation of responsibility ensures that parties receive due process.

If paternity of a child was not established, CSEA will initiate a paternity case and then proceed through the judicial process. If paternity was established, then the case will proceed through the administrative process.

## PROPOSED ORDER

- A proposed administrative order is created and served on the parties by CSEA
- Issues included in the proposed order:
  - Establishment (start) of child support
  - Modification (change) of child support
  - Termination (stop) child support
  - Arrearages (unpaid court ordered child support)
  - Debt (back support owed to the State)
  - Medical insurance coverage
- Order does not say "proposed," but if it's not signed and filed at court, it is not a final order

7/14/2021

15

## **OBJECTING TO A PROPOSED ORDER**

- If a party objects to or disputes a proposed order or action, they must request a hearing
  - There is a Request for Hearing form included with the proposed order
  - Fill it out and send it to CSEA
  - CSEA may request a hearing on its own
- If a hearing is requested, CSEA will schedule a hearing. OCSH will send hearing notices to the parties
- If no hearing is requested, the proposed order will be signed as a final order by the CSEA Administrator. CSEA will file it at court and then it becomes a final and binding order

7/14/2021

16

## **MULTIPLE PROPOSED ORDERS**

- Sometimes parties are served with more than one proposed administrative order or notice of an action
- A party must request a hearing for each proposed order or action they object to
- After the hearings are scheduled, a party may request that the hearings be scheduled on the same day and at the same time (consolidated)

7/14/2021

17

## NOTICE OF THE HEARING

- CSEA schedules a hearing and prints out a Notice of Hearing form (NOH)
- OCSH mails the NOH to the parties
- NOHs are sent by regular mail to the last known address of the parties on file with CSEA
- The hearing location, date, and time are in the NOH
- Parties should read the entire NOH, because it contains important information - OCSH contact information, information about the hearing process, and instructions for pre-hearing requests

7/14/2021

18

## HEARING LOCATIONS

From 5/20 – 8/21 all hearings are being conducted only by telephone conference call because of the restrictions caused by the Covid-19 pandemic. When hearings are conducted in person again, they are at CSEA locations:

1. Oahu: 601 Kamokila Blvd., Room 251, Kapolei
2. Hawaii: 88 Kanoelehua Ave., Room 202, Hilo
3. Kauai: 4370 Kukui Grove Street, Suite 204
4. Maui, Molokai, Lanai: 35 Lunalilo St., Suite 201, Wailuku, Maui

7/14/2021

19

From 5/20 – 8/21, all hearings are only being conducted by telephone conference call to ensure safety and social distancing. This is because of the restrictions required by the State of Hawaii and individual counties caused by the Covid-19 virus. When indoor restrictions are lifted Statewide, in-person hearings will resume at CSEA branches statewide. For hearings on Oahu, they are located in the State Office Building in Kapolei. Parking is available in the public lot in front of the building, and parties can pay for it using the parking machines in the lobby of the building. Parking on the street may also be available at no cost.



## PRE-HEARING REQUESTS

- Types of pre-hearing requests parties can make:
  - To appear by phone
  - To reschedule a hearing
  - To consolidate hearings
  - For subpoenas, interpreters, special accommodations
  - To cancel a hearing
- Requests should be made as early as possible
- Requests are given to the Hearings Officer to review
- If there is no response, then assume the request was denied
- Forms are at: <http://hawaii.gov/ag/ocsh>

7/14/2021

20

All pre-hearing requests should be in writing and sent to OCSH as soon as possible. Requests can be faxed to 808-692-7114, or mailed or delivered to 601 Kamokila Boulevard, Room 436, Kapolei, HI 96707. Requests will be given to the Hearings Officer assigned to conduct the case to review and decide. Forms for pre-hearing requests are available on the OCSH website.

Parties must be specific about why they are making a request, and should not assume that it will be granted. If a party is not contacted by the hearings office, assume the request was denied.

## REPRESENTATION AT THE HEARING

For a hearing:

- Parties can represent themselves
- Parties may have an attorney represent them (they must chose and pay for the attorney themselves)
- Parties may have a non-attorney represent them
- CSEA represents the State of Hawaii and not a party
- Others will not be able to participate unless they are witnesses

7/14/2021

21

The administrative child support hearing process allows non-attorney representatives, although the Family Court does not allow non-attorney representatives. People who come with a party but are not representing them can not participate in the hearing unless they are witnesses. Witnesses may not participate in a hearing until they are called to testify. Children should not be brought to the hearing.

## **HEARING PROCEDURES (for in-person hearings)**

- Parties sign in at CSEA office and wait in the waiting room
- Parties are called into a hearings room by a CSEA representative
- The CSEA representative usually conducts an informal pre-hearing conference, where parties have a chance to:
  - Share information
  - Present documents
  - Ask questions
  - Update and check calculations
- If the parties can come to an agreement, then a consent order can be entered
- If the parties can not come to an agreement, a contested hearing is conducted at that time

7/14/2021

22

When hearings are in-person (no Covid-19 restrictions) parties should come to hearing location early, sign in at the CSEA office, and wait to be called. A CSEA representative will call the parties and take them to the Hearings Room, and may conduct a pre-hearing conference to talk informally. Sometimes though, a pre-hearing conference is not conducted because of the special circumstances of a case or time restraints. and a Hearings Officer may immediately conduct a hearing.

Hearings are usually scheduled every 30 minutes, so the time for a hearing and pre-hearing conference is limited. If more time is needed, the hearing may be continued to another day and time.

## CONTESTED HEARING

If a contested hearing is conducted:

- The HO will record (digital recording) the hearing
- The HO will place the parties under oath
- The parties can:
  - Present evidence (testimony and documents)
  - Object to evidence presented against them
  - Explain what they want or don't want, and why
  - Ask questions
- Issues discussed are limited to those in the proposed order/action
- If a party does not appear, a hearing is conducted anyway

7/14/2021

23

When in-person hearings are conducted on Oahu, the parties, their representatives, and the CSEA representative will be in the hearings room with the Hearings Officer. When hearings are conducted on the neighbor islands, the Hearings Officer conducts the hearing by telephone conference call from Oahu and everyone else is in the hearings room.

The hearing can be held even though one or both parents do not attend or participate in it, as long as they had proper notice of it. An order may be entered after the hearing that is different from the proposed order/action originally sent to the parties.

## EVIDENCE

- Evidence can be testimony or documents
- Documents should be readable, authentic, and original
- Copies of documents will be given to everyone
- Parties should redact (remove) personal/identifying information including:
  - Social Security numbers
  - Bank account numbers
  - Addresses
  - Phone numbers
- Parties should send copies of their documents to the other party, OCSH, and CSEA (APB Coordinator at 601 Kamokila Blvd., Room 251, Kapolei, Hawaii 96707) before the hearing

7/14/2021

24

Parties should remove/redact their social security numbers, bank account numbers, addresses, and telephone numbers from the documents. This should be done before the hearing with a black marker or white-out tape or liquid.

Parties should send copies of their proposed documents/exhibits as early as possible before the hearing to:

- the other party
- OCSH (601 Kamokila Blvd., Room 436, Kapolei, HI 96707)
- CSEA (APB Coordinator, 601 Kamokila Blvd., Room 251, Kapolei, Hawaii 96707)

## COMMON DOCUMENTS

- Income information
  - Pay/income statements/paystubs
  - W-2 forms
  - Tax returns with schedules and attachments
  - Unemployment insurance (UIB) statements
  - Temporary disability insurance (TDI) statements
  - Workers' compensation (WC) statements
- Medical insurance premium costs
  - Out of pocket and verified payments
  - Cost of a single plan, and a family plan
  - Can include medical, dental, vision, and drug plans
- Child care expenses
  - Out of pocket and verified payments
  - Only during the time the parent works

7/14/2021

25

Parties should bring all documents to the hearing they feel will be relevant, helpful, or supportive.

Documents regarding a parties' out of pocket medical insurance premiums for the children should include information showing how much a plan costs for the party and how much more it costs to cover the children. Only the difference is allowed on the child support guidelines. Reimbursed or subsidized costs are not included on the guidelines.

Documents regarding child care expenses should show how much a party pays out of pocket for child care during the time that they work each month. This may include before and after school care, interim care, vacation care, or summer care. Reimbursed or subsidized expenses are not included on the guidelines.



## OTHER COMMON DOCUMENTS

- Filed court orders that include:
  - Child support
  - Custody and visitation
  - Any other relevant information
- Proof of child support payments made
  - CSEA records
  - Cancelled checks
  - Copies of money orders, cashier's checks
  - Copies of pay or paystubs/benefit statements
  - Bank statements
- Verification of continuing education of an adult child
  - Documents should come from the school/institution/program
  - Full-time enrollment is defined by the school/institution/program

7/14/2021

26

## CHILD SUPPORT MODIFICATION

- The last child support order continues until changed by another order
- If an order is less than 3 years old, the party requesting modification must show substantial and material change in circumstances that warrant modification
- The outcome of the calculation may be opposite of what a party wants, so there is some risk
- Modification begins the month after the parties were served with the proposed order, not from the date of the request for modification (like in the Family Court)

7/14/2021

27

## CHILD SUPPORT CALCULATION

Child support is calculated:

- Using the latest version of the Hawaii child support guidelines
- Guidelines are used statewide in both the administrative and judicial processes
- Gross monthly income of the parties is used
- Gross monthly income may be imputed or attributed, based on the reason a party's income has changed, if they are unemployed, or if they are partially employed
- The guidelines amount must be ordered unless a party can prove exceptional circumstances

7/14/2021

28

Child support in Hawaii is based on the gross monthly income of both parties, which can be provided by the parties through their paystubs/benefit statements. CSEA may also have access to the parties' income information, but this is not always available.

If there is no income information for the parties, CSEA may calculate child support based on imputed or attributed income to the parties. This is based on the law which states that every parent should be working full time, at their full income capacity unless there is an exception. If a party believes they have an exception, they must present it and prove it at the hearing.

## TERMINATION OF CHILD SUPPORT

- Usually an order includes the duration/length of child support and how it is paid (directly or through CSEA)
- In most Hawaii orders, child support continues to age 18, and up to 23 if a child is a full-time student
- Child support usually does not stop if a child is still in high after they turn 18 years old
- Child support may not stop if the child is incompetent or dependent

7/14/2021

29

If child support was established in order another State, the duration of the child support may be different than what is usually ordered in Hawaii. The out of state order is the controlling order and Hawaii will try to enforce the order as it was originally written.

Before a child turns 18, CSEA will request from the custodial parent proof that the child is still in high school or is continuing with post high school education. If CSEA does not receive a response, it may administratively stop child support. If CSEA receives information about the child later, it may start child support again.

Child support may not terminate in some cases where a child is not capable of supporting themselves as an adult. This issue should be addressed in Family Court.

## HEALTH INSURANCE COVERAGE

- Coverage for children is usually for medical/health, but can include dental, vision, and drug coverage
- Costs may be included in the child support calculation if a party proves:
  - The cost of their insurance
  - The cost of the child(ren)'s insurance
  - The people covered by the insurance plan(s)
  - Costs must be paid by the party and not someone else, and must be verified and not subsidized

7/14/2021

30

CSEA will initiate a case for medical insurance coverage:

- When a child starts receiving medical insurance from the State of Hawaii (MedQuest)
- When CSEA does not have proof of medical insurance coverage for a child
- When CSEA receives an order from Family Court which does not address who is going to provide the child's medical insurance

## CHILD SUPPORT ARREARS

- Arrears are unpaid court ordered child support
- Arrears are based on child support orders
- Arrears orders include total amount owed, time period covered, repayment amount, start date
- The monthly repayment amount is in addition to ongoing child support
- Records of payments can include:
  - Cancelled checks
  - Copies of money orders, cashier's checks
  - Pay/benefit statements
  - Bank statements
  - CSEA records

7/14/2021

31

If a Responsible Parent falls behind in paying court ordered child support, a delinquency accumulates which is called arrears.

CSEA also has an enforcement branch which uses different legal methods of collecting arrears. These include intercepting state and federal tax refunds, license suspension (including driver's and professional licenses), credit bureau reporting, suspension of passports, seizure of property, and even incarceration. CSEA may initiate several of these actions simultaneously if various arrears thresholds are met.



## **APPEAL**

- If a party disagrees/objects to a final order they can appeal
- They must:
  - File the appeal in the court where the order is filed
  - File within 30 days after they receive the order
  - Pay for the filing fees and to make a transcript of hearing
  - Show the Hearings Officer committed legal error
- The appeal is based on the transcript of the hearing and the file from the hearing. It will not include statements that were not recorded, documents submitted after the hearing is over, events occurring after the hearing, or issues not raised/discussed at the hearing

7/14/2021

32

If there has been a change of circumstances after the hearing, a party should apply for services from CSEA or file a motion in Family Court instead of filing an appeal.

## **REVIEW: THE BIG PICTURE**

- CSEA receives an application for services
- CSEA gathers preliminary information
- CSEA prepares a proposed order
- CSEA serves the proposed order or notice of action
- A party objects and requests a hearing
- OCSH sends Notice of Hearing
- Parties make pre-hearing requests to OCSH
- CSEA conducts pre-hearing conference
- HO conducts a hearing
- HO makes a decision and issues a final order
- CSEA files order at court and sends copy to parties
- Parties can appeal to Family Court

7/14/2021

33